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I am writing to you in response to a Breitbart article that accused the House of Representatives of using “procedural trickery” through the Rules Committee process to “dramatically alter” a measure first put forward by Congressman Ted Yoho. This is the second in a series of letters I will be sending regarding President Obama’s executive actions. **I wanted to set the record straight about how the Rules Committee played its role in conjunction with Congressman Yoho to strengthen his legislation so that, if it becomes law, the Preventing Executive Overreach on Immigration Act of 2014 will limit the president’s ability to grant executive amnesty for illegal immigrants.**

The article raised a number of issues with H.R. 5759 and the process by which it passed the House. I want to specifically address the issues that relate to the Rules Committee, which I chair.

First, the article claims that the bill (See Enclosure A) was dramatically altered by leadership officials in the Rules Committee process. In reality, Chairman Yoho worked closely with the Judiciary Committee through the Rules Committee to strengthen his bill so that it accomplished the end that it sought to accomplish – **to block the president’s use of executive amnesty.**

To begin, Mr. Yoho’s substitute amendment (See Enclosure B) added findings to the bill that explained the historical and constitutional reasons why the president’s executive amnesty is unconstitutional, unlawful, and unprecedented. **Additionally, the amendment made it clear that the President’s executive actions were unconstitutional.**

Additionally, Mr. Yoho’s original bill unintentionally included a loophole that would have allowed DACA beneficiaries to be considered lawfully present in the United States. The substitute amendment text closed that loophole by taking the power to define who is lawfully present in our country away from the president. This fix would take away much of the power that the president has claimed through DACA, most of which he would have been able to continue to claim if Congressman Yoho’s original legislation became law. Thus, without the substitute amendment the president would have been able to continue his DACA program and allow illegal immigrants to stay in the United States legally.

Second, the article claims that the substitute amendment added an exception to removal procedures for illegal immigrants that would give the president “a foot in the door for a

legal argument justifying executive amnesty.” In reality, the substitute amendment provides three express exceptions for removal that closely track the proper use of prosecutorial discretion as exercised by presidents of the United States going back as far as President Eisenhower.

The first exception is designed to help the bill withstand judicial scrutiny. This exception allowed the president to use deferred action pursuant to his well understood constitutional foreign policy powers, such as when President George H.W. Bush let Chinese nationals stay in the U.S. after the Tiananmen Square massacre. Without this constitutional exception and if the bill became law, a federal court could declare Mr. Yoho’s bill unconstitutional for infringing upon legitimate, constitutional executive powers.

The second exception is designed to allow for Federal, state, or local law enforcement agencies to keep aliens in the United States to be tried for crimes or to be witnesses at trial.

The third exception for removal is strictly “for humanitarian purposes where the aliens are at *imminent* risk of serious bodily harm or death.” The president’s recent grant of deferred action to four million unlawful aliens is not based on humanitarian considerations – it is based on simply being an unlawful alien parent, who has been in the U.S. since before 2010, of a U.S. citizen or legal permanent resident child. The humanitarian exception included in Mr. Yoho’s substitute amendment would not apply for the vast, overwhelming majority of those who benefit from the president’s executive amnesty action. To his credit, Congressman Gohmert acknowledged that the legislation should not be interpreted by the president to allow for work permits for those people who benefit from the president’s deferred action program. If this bill became law and if the president chose to use these exemptions to justify his actions, a court could – and should – use its judicial power to rule that action illegal and inconsistent with the clear text of Mr. Yoho’s bill as amended.

After this process, Mr. Yoho’s bill passed the House of Representatives 219-197, with 216 Republicans voting in favor of the bill and only seven Republicans voting against it.

I am proud that the Judiciary Committee worked closely with Congressman Yoho to strengthen his legislation so that the House of Representatives could pass a bill that, if enacted into law, will limit the president’s unconstitutional use of executive amnesty. I remain committed to using Congress’ role in our constitutional law making process to fix our broken immigration system by securing our borders, strengthening interior enforcement, and prosecuting and deporting criminal aliens who are currently in the United States. In order to accomplish these goals, Congress must assert its role and do what it can to deny the president’s ability to unilaterally grant executive amnesty to millions of illegal immigrants.

Sincerely,

A handwritten signature in black ink that reads "Pete Sessions". The signature is written in a cursive, flowing style. The first name "Pete" is written with a large, looped "P" and the last name "Sessions" follows in a similar cursive script.

Pete Sessions
Member of Congress

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